

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ORANGE COUNTY DEPARTMENT OF  
EDUCATION, PLACENTIA-YORBA  
LINDA UNIFIED SCHOOL DISTRICT,  
AND ORANGE UNIFIED SCHOOL  
DISTRICT.

OAH Case No. 2015071008

ORDER OF DETERMINATION OF  
SUFFICIENCY OF DUE PROCESS  
COMPLAINT

On July 13, 2015, Student filed a Due Process Hearing Request<sup>1</sup> (complaint) naming West Orange County Consortium for Special Education, Orange County Department of Education, Placentia-Yorba Linda Unified School District, and Orange Unified School District.

On July 28, 2015, West Orange County timely filed a Notice of Insufficiency as to Student's complaint, contending that the complaint does not comport with the pleading requirements of the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et seq.) in that it does not clearly articulate a cause of action against West Orange County.

On July 30, 2015, OAH granted West Orange County's Motion to Dismiss, dismissing West Orange County as a party in the above-entitled case and ordering that West Orange County be removed as a named party in future pleadings or orders. Having been dismissed as a party in this case, West Orange County's Notice of Insufficiency is now moot.

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<sup>1</sup> A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under Title 20 United States Code section 1415(b)(7)(A).

## APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.<sup>2</sup> The party filing the complaint is not entitled to a hearing unless the complaint meets the requirements of Title 20 United States Code section 1415(b)(7)(A).

A complaint is sufficient if it contains: (1) a description of the nature of the problem of the child relating to the proposed initiation or change concerning the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education (FAPE) to the child; (2) facts relating to the problem; and (3) a proposed resolution of the problem to the extent known and available to the party at the time.<sup>3</sup> These requirements prevent vague and confusing complaints, and promote fairness by providing the named parties with sufficient information to know how to prepare for the hearing and how to participate in resolution sessions and mediation.<sup>4</sup>

The complaint provides enough information when it provides “an awareness and understanding of the issues forming the basis of the complaint.”<sup>5</sup> The pleading requirements should be liberally construed in light of the broad remedial purposes of the IDEA and the relative informality of the due process hearings it authorizes.<sup>6</sup> Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.<sup>7</sup>

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<sup>2</sup> 20 U.S.C. § 1415(b) & (c).

<sup>3</sup> 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

<sup>4</sup> See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

<sup>5</sup> Sen. Rep. No. 108-185, *supra*, at p. 34.

<sup>6</sup> *Alexandra R. v. Brookline School Dist.* (D.N.H., Sept. 10, 2009, No. 06-cv-0215-JL) 2009 WL 2957991 at p.3 [nonpub. opn.]; *Escambia County Board of Educ. v. Benton* (S.D.Ala. 2005) 406 F. Supp.2d 1248, 1259-1260; *Sammons v. Polk County School Bd.* (M.D. Fla., Oct. 28, 2005, No. 8:04CV2657T24EAJ) 2005 WL 2850076 at p. 3[nonpub. opn.] ; but cf. *M.S.-G. v. Lenape Regional High School Dist.* (3d Cir. 2009) 306 Fed.Appx. 772, at p. 3[nonpub. opn.].

<sup>7</sup> Assistance to States for the Education of Children With Disabilities and Preschool Grants for Children With Disabilities, 71 Fed.Reg. 46540-46541, 46699 (Aug. 14, 2006).

## DISCUSSION

As of July 30, 2015, West Orange County is no longer a party in the above-entitled case and has no standing to challenge the sufficiency of the complaint. Accordingly, West Orange County's Notice of Insufficiency is moot and is not considered upon the merits.

IT IS SO ORDERED.

DATE: July 31, 2015

/s/

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LAURIE GORSLINE  
Administrative Law Judge  
Office of Administrative Hearings